

Approved 1/5/11

**TOWN OF CUSHING
PLANNING BOARD
Minutes of Meeting
November 3, 2010**

Board Present: Chairman Dan Remian, David Cobey, Evelyn Kalloch, Frank Muddle, and CEO Scott Bickford

Board Absent: Bob Ellis

Others Present: Ann Aaron, John Black, David Yanofsky, Linda Yanofsky, Alton Grover, Peter Haviland, and Carlton Johnson

1. Call to Order: Chairman Remian called the meeting to order at 6:07 P.M. and a roll call was taken.

2. Approve Minutes of 10/6/10: Mrs. Kalloch noted an incorrect name and a phrase that should be removed.

ACTION: Mrs. Kalloch made a motion, seconded by Mr. Cobey, to accept the minutes of the 10/6/10 meeting as read with three changes.
Carried 4-0-0

3. New Business:

A. Stan Elliot – Request for Marina Use at Map 6, Lot 13, Presented by Alton Grover: Mr. Grover said he had just spoken with Mr. Elliot, who wanted to allow customers to tie small dinghies to his float. Mr. Remian asked how many dinghies would be tied up. Mr. Grover didn't know and Mrs. Kalloch said Mr. Elliot had simply stated "boats three feet or less." Linda Dianofski questioned why this would require a marina permit, which would allow a lot more than just dinghy tie-ups. She read from the ordinance what would be allowed with a marina permit in the Shoreland Zone. In addition, Ms. Dianofski said Mr. Elliot's property was for sale and asked if a permit would convey with the land.

Mr. Cobey said a change from personal to business use was a larger question than could be resolved by the PB and might require re-zoning by Town approval. Mr. Muddle said Mr. Elliot had told him he wanted only to allow a few dinghies to use his float and had no intention of employing the more extensive uses allowed by a marina permit. Mr. Elliot wanted to make some money to offset his taxes and wanted to know if he could charge for dinghy tie-up during the cruising season, Mr. Muddle said. Mr. Cobey said shore access would be for a purpose and felt there was not enough information in the application. Mr. Grover quoted Mr. Elliot as saying he did not intend to sell anything.

Peter Haviland, a neighbor of Mr. Elliot, said he represented other nearby landowners who had an association that owned dockage and roads (including Stan Elliot's driveway). Mr. Haviland said Mr. Elliot's tenancy had predated their own and thus he had a grandfathered right to use the driveway to access his land. The Poland family used the property adjoining Mr. Elliot's for lobstering, but there were no other commercial activities permitted on the properties. Mr. Haviland said this was what the developers intended and what the newer property owners had understood to be the conditions when they purchased. His group objected to any major commercial use of Mr. Elliot's dock. Mr. Haviland did not feel granting a marina permit would be in the Town's interest. He mentioned the disruption that would be caused to Maplejuice Cove by fuel trucks and people hauling boats to be launched. Mr. Haviland said Mr. Elliot was looking for a way to make his unsaleable land more marketable and said the association would have a terrible time with the roads if a marina permit were granted. Mr. Cobey requested a copy of the association documents for the Board. Mr. Muddle said he would not vote on this issue because he was a member of the Maplejuice Cove Association as an abutter and he sympathized with Mr. Haviland's concerns.

Ann Aaron had also spoken with Mr. Elliot, who asked her to reassure people that all he wanted to do was allow boaters to tie-up, walk their dogs and cross his land. However, she had since noticed he was applying for a marina permit. Ms. Aaron's property faced Mr. Elliot's and she felt this had to be looked at as though it would be a full-

fledged marina since the permit would convey with the property. Selling fuel there would endanger the nearby clamflats.

Chairman Remian asked CEO Bickford if he had talked with Mr. Elliot. Mr. Bickford said he had told the applicant that the application looked a little "fakey" to him. He said Mr. Elliot had originally wanted a few moorings, but dropped that when he learned there would be complications. Mr. Elliot then changed his request to be dinghies with a draft of 36" or less at his existing float. The CEO felt this was a challenge for the Board.

Mr. Cobey said all people potentially affected would have to be given notice if this became a more developed application. Mr. Remian felt the application was skimpy and did not detail the total effect of what could happen under the definition of marina or in the commercial aspect. He wanted to see the application tabled until the Board received more information. Ann Aaron asked if Mr. Elliot could receive a permit simply for the use he had expressed. Chairman Remian said limited use could be applied to a permit.

ACTION: Mrs. Kalloch made a motion, seconded by Mr. Remian, to table the issue until new information was received.

Carried 3-0-1 (Mr. Muddle abstained)

B. Preliminary / Final Application for Boundary Change at Far Meadow Subdivision, Map 3, Lot 42-4 and 42-5 – Represented by John Black:

Surveyor John Black said he had done the subdivision work for Far Meadows Subdivision. This was an amendment to the second section to correct an error in locating part of Lot 4 when the house was placed. It had been built so much of it was on Lot 5 and the respective owners had agreed to change the lot line so the house could remain. Developer Cyrus Holmes had offered additional land in the back to make up for what Lot 5 would relinquish to Lot 4.

Mr. Black said the plan he had brought last time had been altered slightly by agreement of all the parties. He explained how three line sections would replace the single line that went from the CMP pole #8. Mr. Black explained the changes in detail. He introduced the owners of Lots 4, 5, and 6. Robert Dinapoli, owner of the lot that would be modified, wanted to be sure the Board agreed that he still owned a buildable lot. Mr. Remian noted the new test pit on his lot and said the square footage and frontage met lot regulations.

Mr. Cobey stated that the only issue at the last meeting had been abutter notification, not the property lines proposed. Abutters had been notified prior to this meeting.

ACTION: Mrs. Kalloch made a motion, seconded by Mr. Muddle, to waive the preliminary and go on to the final application.

Carried 4-0-0

ACTION: Mr. Remian made a motion, seconded by Mr. Cobey, to approve the amendment to Far Meadows Subdivision dated October 18, 2010.

Carried 4-0-0

4. New Business:

Land Use Application at Meduncook Subdivision, Map 5, Lot 9-25 – Presented by Maine Woodland Properties:

Mr. Cobey said the Board had an unsigned letter that stated Machias Savings Bank was the applicant, but the application identified Maine Woodland Properties and James Boyle as the applicant. James Boyle said his company, Maine Woodland Properties, was the applicant and intended to purchase the lot from Machias Savings Bank. His company was applying for a land use permit for a home in the Shoreland Zone. He said the CEO had suggested they come before the Board because the lot was located close to Resource Protection areas. They had hired Drew Grenier and John Black to assist with their application by explaining where Resource Protection was located, so their foundation would not intrude.

Mr. Boyle explained details of the plan, pointing out the Shoreland Zone, setbacks, and areas of less than 20% grade where the home and garage would be located. Mr. Black had done a slope stability analysis and planned a silt fence. The well would be located near the existing driveway and septic was planned at the location of Test Pit #9. There was discussion about a vehicle turnaround and Mr. Boyle explained where that could be located.

Mr. Cobey, noting the 10' setback on all sides, said the applicant would have to convince the Board that he could construct the home and garage without going into the Resource Protection area, which he felt would require a

grading plan. Mr. Boyle suggested that could be submitted to the CEO prior to construction. Mr. Cobey asked if the Board understood it would be approving a clearing and access easement between the house and the field for this to work.

The Chairman began review with Section 15 (A).

ACTION: Mr. Remian made a motion, seconded by Mrs. Kalloch, that Section 15 (A) was satisfied.
Carried 4-0-0

Mr. Remian saw no mention of the height of the structure and told Mr. Boyle he would be limited to 35 feet.

ACTION: Mrs. Kalloch made a motion, seconded by Mr. Remian, to accept Section 15 (B).
Carried 4-0-0

Mr. Remian said Sections 15 (C, D, E, F, and G) did not apply.

ACTION: Mr. Remian made a motion, seconded by Mr. Cobey, that Section 15 (H) can be satisfied.
Carried 4-0-0

Mr. Remian said Sections 15 (I and J) did not apply.

ACTION: Mr. Remian made a motion, seconded by Mr. Cobey, that Section 15 (K) can be satisfied.
Carried 4-0-0

Mr. Remian said Sections 15 (L, M, N, and O) did not apply.

ACTION: Mr. Remian made a motion, seconded by Mr. Cobey, that Section 15 (P) is satisfied.
Carried 4-0-0

ACTION: Mr. Cobey made a motion, seconded by Mr. Remian, that Section 15 (Q) can be complied with.
Carried 4-0-0

ACTION: Mr. Cobey made a motion, seconded by Mr. Muddle, that Sections 15 (R, S, and T) did not apply.
Carried 4-0-0

The Board then moved on to Section 16 (F).

ACTION: Mr. Cobey made a motion, seconded by Mr. Remian, for a positive finding for the application with respect to Section 16 (F) items a through i.
Carried 4-0-0

ACTION: Mr. Remian made a motion, seconded by Mrs. Kalloch, that the application was approved with the condition that the house final plan be submitted for a building permit at the appropriate time.
Carried 4-0-0

5. Other Business: Mr. Cobey said the PB should meet to decide what to do about the subdivision regulations. Mr. Remian said he would speak with Mr. Ellis and schedule a workshop this month. CEO Bickford asked for permission to reformat the regulations for clarity.

Mr. Bickford gave a brief update on the question of disturbing vegetation when building a foundation. Mr. Muddle agreed with DEP's Jim Cassiter's definition, which Mr. Bickford had questioned. Mr. Muddle read aloud a piece by Gordon Stewart on disturbance. The CEO's concern was that Mr. Cassiter's opinion could create a lot of problems. He felt the Town's regulations should tighten up the definition of structure and allow the PB to issue waivers in order to address the issue. Mr. Muddle countered that the PB had to be careful about being so restrictive and not allowing something that seemed to be reasonable.

6. Adjournment: Mrs. Kalloch made a motion, seconded by Mr. Cobey, to adjourn at 7:45 P.M.
Carried 4-0-0

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Respectfully submitted,

Deborah E. Sealey
Recording Secretary
(From the digital recording)